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By ECF

January 31, 2024

Hon. Marcia M. Henry United States District Court Eastern District of New York 225 Cadman Plaza East Brooklyn, NY 11201

Re: Guan, et al. v. Mayorkas, et al., No. 1:19-cv-06570 (PKC/MMH)

Dear Judge Henry:

We write on behalf of Plaintiffs regarding developments in discovery that are relevant to Plaintiffs' motion to compel dated April 25, 2023, and in particular involve Defendants' refusal to provide complete answers to Interrogatory Nos. 1 and 5. See ECF 94 at 4–5. As explained below, Defendants continue to refuse to provide complete information, notwithstanding the late disclosure that

In particular, while Plaintiffs' motion has been pending, CBP provided a supplemental response to a separate interrogatory (Interrogatory No. 10) that was not the subject of Plaintiffs' motion. See Ex. 1 at 6–9. This supplemental response indicates that CBP is in possession of significant information identified during that is responsive to Interrogatory Nos. 1 and 5, but which

was not timely disclosed in response to those interrogatories, and the details of which *still* have not been meaningfully disclosed as called for by those interrogatories. Defendants' failure to provide complete information that is in their possession and responsive to Interrogatory Nos. 1 and 5 further supports Plaintiffs' motion to compel on those interrogatories.

I. Background

Nearly two years ago, on April 20, 2022, Plaintiffs served a First Set of Interrogatories seeking basic information at the heart of this matter. Of relevance to this letter:

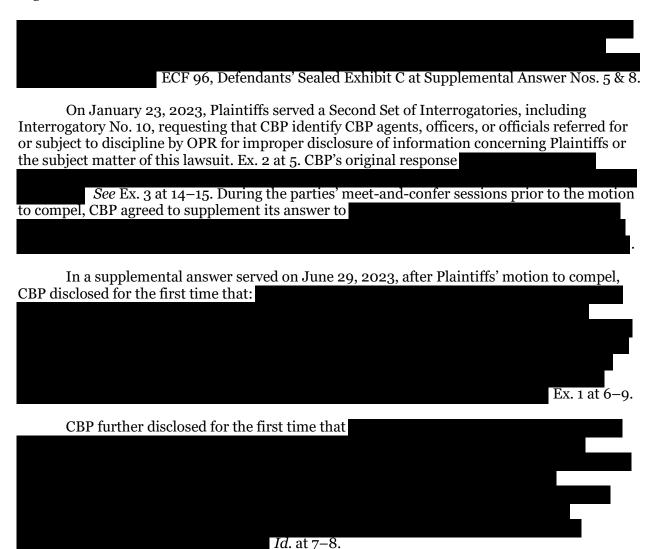
Interrogatory No. 1 requests that Defendants identify communications between Defendants' agents and foreign government officials about any Plaintiff. *See* ECF 94-15 at 4. CBP's answer

Id. at

10-11.

Interrogatory No. 5 requests that Defendants identify documents or communications once possessed by Defendants regarding any Plaintiff or Operation Secure Line since 2018 that have become inaccessible or ceased to exist. *Id.* at 5. In response, CBP has

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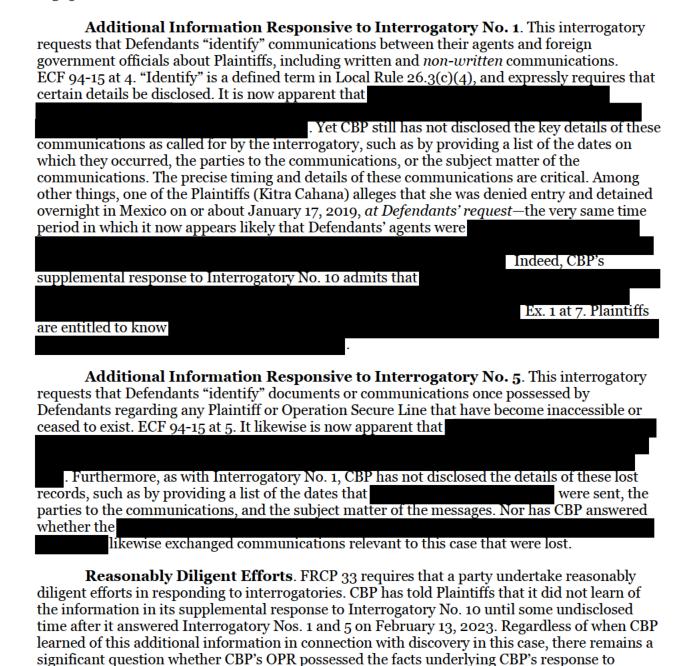


On August 28, 2023, Plaintiffs requested that CBP explain why the underlying facts that which are responsive to Interrogatory Nos. 1 and 5, had not been previously disclosed (and, as discussed below, the details of which still have not been meaningfully disclosed). On September 27, 2023, Defendants responded that "the information in Defendants' supplemental response to Interrogatory No. 10 (provided on June 29, 2023) was not known to Defendants at the time they responded to/supplemented Interrogatories Nos. 1 and 5 on May 20, 2022 and February 13, 2023." On October 25, 2023, Plaintiffs sent Defendants a draft of the instant letter and advised that they intended to file it. The parties thereafter met and conferred. Defendants requested the opportunity to investigate Plaintiffs' concerns raised in this letter, and advised that they would provide a response "within the next two weeks." After repeated follow-ups from Plaintiffs, Defendants finally stated on January 10, 2024, without further detail, simply: "After looking into the matter further, and based on the information we currently have, Defendants will not be supplementing our interrogatory responses at this time."

II. Defendants' Continued Incomplete Answers to Interrogatory Nos. 1 and 5

CBP's supplemental answer to Interrogatory No. 10 highlights the continuing deficiencies in Defendants' answers to Interrogatory Nos. 1 and 5, on which Plaintiffs have moved to compel. *See* ECF 94 at 4–5.

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February 13, 2023, CBP should have learned of such facts in connection with preparing its answers to Plaintiffs' interrogatories, and fully disclosed all responsive details at that time. CBP's apparent failure to do so raises a significant question whether there is yet other critical responsive information that CBP has not yet identified or disclosed.

Plaintiffs respectfully submit that these disclosures by CBP further support their motion

months earlier on September 20, 2021. If CBP's OPR indeed had this information prior to

and the OIG published its report seventeen

Interrogatory No. 10 before February 13, 2023, considering that

Plaintiffs respectfully submit that these disclosures by CBP further support their motion to compel as to Interrogatory Nos. 1 and 5. Plaintiffs respectfully request that the motion be granted, and that the Court set a status conference to discuss completion of discovery (with the parties to submit a proposed schedule consistent with the Court's order dated July 24, 2023).

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Respectfully Submitted,

Andrew W. Hahn

cc: All counsel of record by ECF

(Counsel for Defendants also by Email)

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